

Incentives and Sanctions Policy

Approved: 

Date: October 2015

I. Policy

Probation staff shall swiftly, certainly and consistently employ Incentives and apply Administrative Sanctions as outlined in Supreme Court Rule, and the Incentives and Sanctions Matrix.

All positive progress towards life stability, positive behavior change and program completion shall be recognized and incentivized per the Nebraska Probation System's Incentives and Sanctions Matrix.

Application of Administrative Sanctions related to a probationer's mental health or substance use diagnosis shall occur in collaboration with the Registered Service Provider associated with the probationer's course of treatment and heavily consider any current diagnosis when sanctioning probationer's having been diagnosed with a significant substance use, mental health or other disorders as defined by the most recent edition of the Diagnostic and Statistical Manual (DSM).

In felony cases, custodial sanctions, as outlined in Incentives and Sanctions Matrix and as approved and directed by the Court, of up to three days in jail shall be designated as the second most severe response to non-compliance, while custodial sanctions of up to 30 days in jail shall be designated as the most severe response to non-compliance. Further, unless a probationer has absconded from supervision, formal revocation proceedings may only be instituted against the probationer for a substance abuse or noncriminal violation if the probationer has served a minimum of ninety days of cumulative custodial sanctions during the current probation term.

Per State Statute, all occurrences of non-compliance involving criminal activity – aside from minor traffic violations – shall result immediately in submission of an Alleged Probation Violation report (Request of Revocation of Probation) to the appropriate prosecuting authority. If, upon the direction of the Prosecuting Attorney stating a violation should not be pursued for said criminal activity, such directive shall be clearly articulated in the Nebraska Probation System's Data Management System indicating why a violation report was not submitted per statute.

In the event the prosecuting authority decides to pursue a motion to revoke probation upon receipt of an administrative sanctions notice, probation staff will continue to effort case management in order to enhance community safety and facilitate positive behavior change.

II. Purpose

To enhance and guide the critical thinking of probation officers and allow for statewide consistency in application of incentives and administrative sanctions.

III. Reference

[Neb. Revised Statute 29-2262](#)

[Neb. Revised Statute 29-2258](#)

[Neb. Revised Statute 29-2277 to 29-2279](#)

[Neb. Revised Statute 29-2262.06](#)

[Neb. Revised Statute 29-2266 \(1\)](#)

[2015 Nebraska Legislature's LB605](#)

[Nebraska Supreme Court Rule § 6-1901. Custodial Sanctions](#)

Nebraska Supreme Court Rule § 6-1902. Custodial Sanctions for Interstate Compact Cases
State v. Lee, 237 Neb. 724, 725, 467 N.W.2d 661, 662, 1991 Neb. LEXIS 144, 3 (Neb. 1991).
State v. Collins, 1 Neb. App. 596, 596, 510 N.W.2d 330, 330, 1993 Neb. App. LEXIS 158, 1 (Neb. Ct. App. 1993)
State v. Salyers, 239 Neb. 1002, 1005, 480 N.W.2d 173, 176, 1992 Neb. LEXIS 34, 7 (Neb. 1992)

IV. Procedure

A. Incentives

1. Individuals placed on probation and/or subject to post release supervision shall, whenever possible, at their first appointment with their supervising officer, be provided with the Incentives and Sanctions Brochure as written notice of the practices of awarding incentives to recognize achievement of milestones, positive behavior and program completion per the Incentives and Sanctions Matrix.
 - a) This Incentives and Sanctions Brochure shall include activities and behaviors for which incentives could be imposed, possible incentives to be issued, and the process through which incentives will be awarded.
 - b) Being mindful of Social Learning Theory, probation staff shall pay special attention to, and positively reinforce, all accomplishments made by those under their supervision in order to build self-efficacy.

B. Administrative Sanctions

1. Individuals placed on probation and/or subject to post release supervision shall, whenever possible, at their first appointment with their supervising officer, be provided with the Incentives and Sanctions Brochure as written notice of the sanctioning practices of the Nebraska Probation System.
2. This notice shall include activities and behaviors for which a sanction can be imposed, possible sanctions to be imposed, including custodial sanctions, and the process through which sanctions will be imposed.

Violations are defined as:

- a) Noncriminal – a probationer’s activities or behaviors which create the opportunity for re-offending or diminish the effectiveness of probation supervision resulting in violation of the original conditions of probation.
 - b) Substance abuse – a probationer’s activities or behaviors associated with the use of chemical substances, substance abuse testing, or related treatment services resulting in a violation of an original conditions of probation.
 - c) Other than a substance abuse or noncriminal violation: All non-compliance considered to be contrary to Federal, State or Local Statutes or Ordinances.
- 3. Probation Staff shall use critical thinking when determining if, and when, sanctioning needs to occur and to what extent.
 - a) Probation staff shall explore the motivation behind non-compliance, and appropriate referrals and adjustments to classification and case plan/critical path maps shall be made to address the non-compliance.
 - b) It is imperative Probation Staff understand, account for and apply administrative sanctions differently on individuals diagnosed with significant substance use disorders and/or diagnosed mental health issues as opposed with those who do not.
 - c) Treatment, relapse and case plans/critical path maps shall be reviewed and adjusted if and when indicated.
- 4. All imposed sanctions shall be graduated in nature, but significant enough, and imposed swiftly enough, to ensure community safety and cause noticeable change in the probationer’s approach moving forward.
 - a) Applicable Administrative or Custodial Sanctions shall be imposed and implemented as soon as possible following all required collaborative activities and as approved by the Court and/or the Chief Probation Officer or their designee.

C. Custodial Sanctions

- 1. All individuals on probation following a conviction for a felony offense are subject to custodial sanctions.
- 2. Any individual on probation for a felony from another State but transferred through the Interstate Compact are subject to custodial sanctions that will be served in a County Jail within the State of Nebraska and as approved by the presiding judge in the probation district to which the probation was transferred.

3. Before imposing a custodial sanction, the probation officer must first exhaust all meaningful and relevant Administrative sanctions, obtain the authorization to impose the custodial sanction from a Chief Probation Officer or their delegate AND obtain the authorization from the Court.
4. A Motion to Revoke Probation may not be pursued in felony cases until such a time at least 90 days of custodial sanctions have been imposed or unless the probationer has committed a new law violation or has been declared an absconder.
 - a) An Absconder shall be defined as any probationer that has avoided supervision for a period of at least 15 days (failed to report for appointments, programming, testing, etc. at the probation office, failed to report for required treatment or other services, etc.) and whom the probation officer, despite their best efforts, has been unable to locate through known family members, at home, work, school or other locations.

D. Arrest and Detention

1. If at any time a probation officer believes a probationer is in violation of their probation, or is about to violate their probation, AND is believed to be a danger to themselves or others, or is at risk to flee the jurisdiction of the Court, the probationer shall be arrested in accordance with Nebraska Revised Statute 29-2266.